IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 4TH MAY 2007 / 14TH VAISAKHA 1929

Crl.MC.No. 1426 of 2007()

C.C.NO.119/1988 RENUMBERED AS C.C.NO.1567/1999 AND ASSIGNED L.P.NO.25 OF 2005 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

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PETITIONER: ACCUSED

M.M.ASHRAF, S/O. MOHAMMED MUSTAFA,
KATHIVILA VEEDU, VANCHIYOOR, P.O.ATTINGAL,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.KHALID
SRI.V.P.MAHAMMOOD
SRI.R.O.MUHAMED SHEMEEM

RESPONDENTS: COMPLAINANTS & STATE

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1. COLLECTOR OF CUSTOMS,
KOCHI.

2. ASSISTANT COLLECTOR,
AIR CUSTOMS, THIRUVANANTHAPURAM.

3. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

Crl.M.C.No.1426 of 2007

Dated this the 4th day of May 2007

O R D E R

Heard the learned counsel for the petitioner and the learned Director General of Prosecutions. The grievance that is highlighted by the learned counsel for the petitioner is that it was believing the customs officials that he will not be liable to prosecution if he pays the penalty as well, over and above confiscation of the undisclosed gold found in his possession, that he paid the penalty as well, that, at present, marriage of his daughter is fixed; that the bride groom is from Pune and that the marriage is to be solemnised on 20/05/2007 at Kannur and that in as much as warrant is pending against him from the court of learned Additional Chief Judicial Magistrate (Economic Offences), Ernakulam in C.C.No.119/1988 (presently L.P.No.25/05) the petitioner will not be able to have the marriage of his daughter performed. The grievance highlighted by the petitioner is genuine and is not disputed by the Director General of Prosecution. Though prayers 1 and 2 of Criminal Miscellaneous Case do not deserve to be allowed, the petitioner

is directed to surrender before the learned Additional Chief Judicial Magistrate (Economic Offences), Ernakulam positively on or before 16/5/2007. On such surrender before the learned Additional Chief Judicial Magistrate (Economic Offences), Ernakulam, he shall surrender his passport before the learned Additional Chief Judicial Magistrate (Economic Offences), Ernakulam and deposit by way of cash security an amount of Rs.50,000/- (Rupees fifty thousand only) and execute bail bond for an amount of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sums to the satisfaction of the Additional Chief Judicial Magistrate (Economic Offences), Ernakulam. On the petitioner complying with the above conditions and filing an affidavit undertaking that he will not leave India without the permission of the trial court till disposal of the case, the learned Additional Chief Judicial Magistrate (Economic Offences), Ernakulam shall release the petitioner on bail. On such release, the petitioner shall invariably appear in the court below on all posting dates of the case till its disposal and any failure on his part to comply with the above directions shall entail forfeiture of the cash security that may be deposited by him in the court below and the learned Additional Chief

Judicial Magistrate (Economic Offences), Ernakulam shall also be at liberty to consider the bail as cancelled and to proceed against the petitioner and his sureties under Section 446 Cr.P.C.

2. This Criminal Miscellaneous Case is disposed of granting bail as aforesaid as prayers 1 and 2 does not deserve to be allowed.

K.P.BALACHANDRAN,
JUDGE.

jsr